

Exhibit E

10/31/18 letter from C. Julka to Plaintiff

Re: SO 3368 FOIA request



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

IN REPLY REFER TO:
7202.4-OS-2019-00099

October 31, 2018

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Via email: jpidot@law.du.edu

Justin Pidot
Professor of Law
University of Denver Sturm College of Law
2255 E. Evans Avenue
Denver, CO 80208

Dear Mr. Pidot:

On October 22, 2018 you filed a Freedom of Information Act (FOIA) request seeking the following:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. §552, I request the following records:

- All records on which Deputy Secretary Bernhardt relied in issuing Secretarial Order 3368, titled "Promoting Transparency and Accountability in Consent Decrees and Settlement Agreements," including all records related to the Order's estimate that the Department has agreed "to pay more than \$1.7 billion in monetary awards" pursuant to settlement agreements and consent decrees, not including any individual settlement or consent decree into which the Department may have entered.
- All records created between January 20, 2017 and September 11, 2018 and authored by the Secretary, Deputy Secretary, Assistant Secretaries, Solicitor, and Bureau Directors, and their immediate staff, or created by any department employee for use by the Secretary, Deputy Secretary, Assistant Secretaries, Solicitor, and Bureau Directors, addressing the subjects of Secretarial Order 3368, specifically the relationship between settlements and consent decrees and 1) costs, 2) transparency) and 3) the conversion of "a mandatory duty the otherwise discretionary authority of the" Department of the Interior. This request does not include records related to specific settlements or consent decrees or efforts to negotiate specific settlements or consent decrees.

¹ Although your request specified January 20, 2016 as the start date, we assume you meant 2017. If that assumption is incorrect, please let us know.

Mr. Justin Pidot

- All records created between January 20, 2017 and September 11, 2018 between the Secretary, Deputy Secretary, Assistant Secretaries, Solicitor, Bureau Directors, Deputy Bureau Directors, the immediate staff of those identified individuals, and persons outside of the Department of the Interior, about the Department's settlement practices, not including records related to negotiating specific settlements or consent decrees with parties to litigation. Suggested search terms include "sue and settle," "consent decrees," "settlements," "equal access to justice act," and "EAJA."

Your request was received in the Office of the Secretary FOIA office on October 22, 2018, and assigned control number **OS-2019-00099**. Please cite this number in any future communications with our office regarding your request.

You have asked for a waiver of all FOIA processing fees. Please be advised that we are in the process of determining whether or not your entitlements are sufficient to enable us to process your request, or if we will need to issue a formal determination on your request for a fee waiver

We have classified you as an "Educational Institution" requestor. As such, we may charge you for some of our duplication costs, but we will not charge you for our search or review costs; you also are entitled to up to 100 pages of photocopies (or an equivalent volume) for free. *See* 43 C.F.R. § 2.39. If, after taking into consideration your fee category entitlements, our processing costs are less than \$50.00, we will not bill you because the cost of collection would be greater than the fee collected. *See* 43 C.F.R. § 2.37(g).

Because we will need to search for and collect requested records from field facilities or other establishments that are separate from the office processing the request, we are taking a 10-workday extension under *43 C.F.R. § 2.19*. For the same reason, we are placing your request under the "Complex" processing track. *See 43 C.F.R. § 2.15*. You can expect to hear from us promptly regarding the outcome of this search.

In the interim, if you have any questions regarding the status of your request, or any of the issues discussed in this letter, you may contact Judge P. Stephens by phone at (202) 208-5921, by fax at (202) 219-2374, by e-mail at os_foia@ios.doi.gov or by mail at U.S. Department of the Interior, 1849 C St, N.W., MS-7328 MIB, Washington, D.C. 20240. You also may seek dispute resolution services from our FOIA Public Liaison, Clarice Julka.

Sincerely,

Clarice Julka
Office of the Secretary
FOIA Officer

Mr. Justin Pidot